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[Notices]
[Page 3271]
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[DOCID:fr17ja08-92]

[[Page 3271]]

DEPARTMENT OF **JUSTICE**

Notice of Lodging of Consent Decree Under the Comprehensive
Environmental Response, Compensation, and Liability Act

Notice is hereby given that on January 7, 2008, a proposed Consent Decree in United States v. Summit Equipment & Supplies, Inc., and Benjamin J. Hirsch, related Civil Action Nos. 5:90CV1704 and 5:05CV2031, was lodged with the United States District Court for the Northern District of Ohio, Eastern Division.

In Civil Action No. 5:90CV1704, the United States, on behalf of the United States Defense Logistics Agency, sought to recover response costs that it had incurred at or in connection with the Summit Equipment & Supplies, Inc. Superfund Site (the ``Site'') in Akron, Ohio pursuant to section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (``CERCLA''), 42 U.S.C. 9607(a), against Summit Equipment & Supplies, Inc., (``SES'') and Benjamin J. Hirsch, the former operators of the Site and current owner of the Site. In Civil Action No. 5:05CV2031, the United States, on behalf of the United States Environmental Protection Agency (``EPA''), sought to recover civil penalties under section 104(e) of CERCLA, 42 U.S.C. 9604(e), against SES and Mr. Hirsch for their failure to respond to requests for information issued by EPA in connection with the Site.

The Consent Decree would resolve the United States' cost recovery claims with regard to the Site against SES and Mr. Hirsch under section 107(a) of CERCLA, 42 U.S.C. 9607(a), through a sum-certain reimbursement of \$236,624.27 into the United States Defense Environmental Restoration Account. In addition, Mr. Hirsch would reimburse the United States Defense Environmental Restoration Account forty percent (40%) of the assets of SES upon his death or upon any transfer of SES assets outside the normal course of business, whichever is earlier. The Consent Decree would resolve the United States' claims against SES and Mr. Hirsch under section 104(e), 42 U.S.C. 9604(e), through payment of a civil penalty of \$15,000. The reimbursements and penalties to be paid to the United States under the settlement are based upon a documented limited ability to pay.

As a condition of settlement, Mr. Hirsch, as owner of the Site, would implement institutional controls at the Site through the recording of restrictive covenants, which are required under the Record of Decision to complete the remedy at the Site. Additionally, SES and Mr. Hirsch would relinquish all claims or causes of action with respect to the Site against the United States. In return, SES and Mr. Hirsch would receive contribution protection and a covenant not to sue from the United States under sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), with regard to the Site, subject to certain reservations of rights.

The Department of **Justice** will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent

Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to pubcomment-ees.enrd@usdoj.gov or mailed to P.O. Box 7611, U.S. Department of **Justice**, Washington, DC 20044-7611, and should refer to: United States v. Summit Equipment & Supplies, Inc., and Benjamin J. Hirsch, Civil Action Nos. 5:90CV1704 and 5:05CV2031, D.J. Refs. 90-11-3-633 and 633/3.

The Consent Decree may be examined at the Office of the United States Attorney for Northern District of Ohio, Carl B. Stokes United States Court House, 801 West Superior Avenue, Suite 400, Cleveland, Ohio, and at U.S. EPA Region 5, 77 West Jackson Boulevard, 14th Floor, Chicago, Illinois. During the public comment period, the Consent Decree may also be examined on the following Department of **Justice** Web site, <http://www.usdoj.gov/enrd/Consent--Decrees.html>. Copies of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of **Justice**, Washington, DC 20044-7611 or by faxing or e-mailing a request to Tonia Fleetwood (tonia.fleetwood@usdoj.gov), fax number (202) 514-0097, phone confirmation number (202) 514-1547. In requesting copies from the Consent Decree Library, please enclose a check, payable to the U.S. Treasury, in the amount of \$16.50 (25 cents per page reproduction cost), or, if by e-mail or fax, forward a check in the amount of \$16.50 to the Consent Decree Library at the stated address.